

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 9500Star4017	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2005/051101	International filing date (<i>day/month/year</i>) 11 March 2005 (11.03.2005)	Priority date (<i>day/month/year</i>) 08 April 2004 (08.04.2004)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant TESA AG			

- This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 *bis*.1(a).
- This REPORT consists of a total of 9 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

- This report contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input checked="" type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> | Box No. VIII | Certain observations on the international application |

- The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Date of issuance of this report 04 December 2006 (04.12.2006)
	Authorized officer Ellen Moyse e-mail: pt05@wipo.int

PATENT COOPERATION TREATY

TRANSLATION

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing (day/month/year) **See Form PCT/ISA/210 (sheet 2)**

Applicant's or agent's file reference

9500Star4017

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2005/051101

International filing date (day/month/year)

11.03.2005

Priority date (day/month/year)

08.04.2004

International Patent Classification (IPC) or both national classification and IPC

B62D25/24, B60R13/08, D06N3/00

Applicant

TESA AG

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2005/051101

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language
_____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. II

Priority

1. ☐ The following document has not yet been furnished:

☐ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43bis.1 and 64.1) is the claimed priority date.

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Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-6	YES
	Claims		NO
Inventive step (IS)	Claims	5	YES
	Claims	1-4, 6	NO
Industrial applicability (IA)	Claims	1-6	YES
	Claims		NO
2. Citations and explanations:			
1. Reference is made to the following documents:			
D1: EP-B-1 114 113 (RAPID S.A) 26 March 2003 (2003-03-26)			
D2: EP-A-0 834 442 (TRW UNITED-CARR GMBH & CO. KG; TRW AUTOMOTIVE ELECTRONICS & COMPONE) 8 April 1988			
D3: US-B1-6 786 521 (JAFFKE ELMER L ET AL) 7 September 2004			
In accordance with Box II, document D3 is not considered further for this opinion, although it would very probably be prejudicial to novelty.			
2 INDEPENDENT CLAIM 1			
2.1 Irrespective of the lack of clarity mentioned in Box VIII, the present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 does not involve an inventive step within the meaning of PCT Article 33(3).			
2.1.1 Document D1 is considered to be the closest prior art with respect to the subject matter of claim 1. It discloses (the references between parentheses refer to this document): a method of permanently closing holes of automobile			

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

bodies by virtue of the fact that a blank which is at least partly self-adhesive on one side and is provided with a backing and whose area is greater than the area of the hole to be closed, and which is provided with a non-expanded foam body on the adhesive side, is fixed on the hole in such a way that the hole is completely covered by the blank, the blank with the foam body is heated in such a way that the foam body expands, heat is supplied until the expanded foam body completely fills and/or covers the hole, and the expanded foam body cools and cures.

2.1.2 The subject matter of claim 1 therefore differs from that known from D2 in that the foam body is located inside the hole when the blank is being fixed.

The subject matter of claim 1 and of dependent claims 2-6 is therefore novel (PCT Article 33(2)).

2.1.3 The problem addressed by the present invention can therefore be considered that of also anchoring the foam body at the bottom margin of the opening in a media-tight manner.

2.1.4 The solution proposed in claim 1 of the present application cannot be considered inventive (PCT Article 33(3)) for the following reasons:

With regard to the feature of a foam body projecting into the opening, document D2 describes the same advantages as the present application. A person skilled in the art would therefore consider the inclusion of this feature in the blank described in D1 to be an obvious measure for solving the problem of interest.

2.1.5 A person skilled in the art would therefore combine all

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

the features disclosed in D2 and D3 in order to solve the problem of interest, without thereby being inventive. The solution proposed in independent claim 1 therefore cannot be regarded as inventive (PCT Article 33(3)).

3 DEPENDENT CLAIMS 2-4, 6

Claims 2-4, 6 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step.

3.1 Claim 2: the foam body of D1 or D2 is itself an adhesive compound and provides the blank below it itself with adhesive compound.

3.2 Claims 3, 4 and 6: these features are known from D1, see passage in the search report.

3.3 Claim 5: textile backings are known to a person skilled in the art in connection with floor mats and covers in a body, e.g. backings made of fleece.

However, a textile backing made of a cotton fabric having a warp number of 70 to 80 is not obvious, and the solution proposed in claim 5 therefore involves an inventive step (PCT Article 33(3)).

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

The application does not meet the requirements of PCT Article 6 because claim 1 is not clear.

It is not clear whether the area of the blank or of the backing is greater than the hole.

For this report, it has been assumed that it is the blank whose area is characterized.

- Subject matter of the claims and "in particular" features.

Features which are introduced with "in particular" may only be understood as examples and on no account limit the subject matter of the claim in question. The wording of claim 1, for example, is accordingly to be interpreted for the examination as follows:

a method of permanently closing holes of automobile bodies by virtue of the fact that a blank which is at least partly self-adhesive on one side and is provided with a backing and whose area is greater than the area of the hole to be closed, and which is provided with a non-expanded foam body on the adhesive side, is fixed on the hole in such a way that the hole is completely covered by the blank and the foam body is located inside the hole, the blank with the foam body is heated in such a way that the foam body expands, heat is supplied until the expanded foam body completely fills and/or covers the hole, and the expanded foam body cools and cures.

- Claim 3: the specification of features and/or combinations of features under a single claim which at first glance do not seem to be technically linked, makes

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Box No. VIII Certain observations on the international application

it unnecessarily difficult to understand what the subject
matter of claim 3 is.